

महाराष्ट्र शासन

क्रमांक: दिव्यांग २०१५/प्र.क्र.१७१/१६-अ

सामान्य प्रशासन विभाग,
मंत्रालय विस्तार इमारत,
हुतात्मा राजगुरु चौक, मादाम कामा मार्ग,
मंत्रालय, मुंबई-४०० ०३२.
दिनांक: १४ जुलै, २०२१

प्रति,
सर्व अपर मुख्य सचिव/प्रधान सचिव/सचिव,
मंत्रालयीन प्रशासकीय विभाग,
मंत्रालय, मुंबई ४०००३२.

**विषय: दिव्यांग कर्मचाऱ्यांना गट अ व गट ब मधील पदांवर पदोन्नती मधील आरक्षणाबाबत
संदर्भ : सा.प्र.वि., शासन निर्णय क्र. दिव्यांग २०१५/प्र.क्र.१७१/१६ अ, दि.०५.०७.२०२१**

सामान्य प्रशासन विभागाच्यासंदर्भाधीन शासन निर्णयान्वये दिव्यांग व्यक्ती हक्क अधिनियम, २०१६ अनुसार दिव्यांग कर्मचाऱ्यांना गट अ व गट ब मधील पदांवर पदोन्नती मध्ये आरक्षण विहित करण्याबाबत आदेश निर्गमित करण्यात आले आहेत. सदर आदेशान्वये शासन सेवेतील गट-अ व गट ब मधील पदांवर नियुक्तीस पात्र (Identified Posts) ठरविलेल्या पदांवर पदोन्नतीमध्ये ४ टक्के आरक्षण देण्याबाबत सूचना देण्यात आल्या आहेत. त्यानुसार दिव्यांग प्रकारातील नमूद करण्यात आलेल्या अ, ब आणि दिव्यांग प्रकारासाठी प्रत्येकी एक टक्के आरक्षण तसेच ड व इ या प्रकारासाठी एक टक्के याप्रमाणे एकूण ४ टक्के आरक्षण देण्यात आलेले आहे. सदर आदेश मंत्रालयीन विभागवत्यांच्या अखत्यारीतील सर्व शासकीय/ निमशासकीय कार्यालय मंडळे, महामंडळे प्राधिकरणे, स्थानिक स्वराज्य संस्था, जिल्हा परिषद, महानगरपालिका, नगरपालिका, शासन अनुदानित संस्था आणि ज्यांना आदेश देण्याचा अधिकार शासनास आहे अशा सर्व संस्था व सेवा यांना हे आदेश लागू आहेत.

उक्त आदेशानुसार ज्या ज्या संवर्गातील पदे दिव्यांगासाठी सुनिश्चित करण्यात आलेले आहेत, त्या पदांवर पदोन्नती देण्यासाठी प्रशासकीय विभागांनी व त्यांच्या अखत्यारितील कार्यालयांनी त्वरीत कार्यवाही करणे अपेक्षित आहे. तसेच सदरची कार्यवाही करताना मा. उच्च न्यायालयाचे दिनांक २९.०६.२०२१ व दि.०८.०७.२०२१ रोजीचे आदेश विचारात घ्यावयाचे आहेत. त्यामुळे रिक्त असलेल्या पदांवर पदोन्नतीसाठी जेवढ्या पदांची निवडसूची तयार करावयाची आहे तेवढ्या १०० टक्के पदांसाठी निवडसूची तयार करावी. सदर निवडसूची तयार करताना दिव्यांग आरक्षणाची अंमलबजावणी करण्यासाठी संदर्भाधीन शासन निर्णयात विहित करण्यात आलेल्या तरतूदीनुसार कार्यवाही करण्यात यावी. मात्र सद्यःस्थितीत पदोन्नती देतांना दिव्यांग नसलेल्या अधिकाऱ्यांना ५० टक्के पदांवर पदोन्नती द्यावी व त्या व्यतिरिक्त दिव्यांगाकरीता पदोन्नतीसाठी लागू केलेल्या ४ टक्के आरक्षणानुसार निवडसूचीतील पात्र दिव्यांग अधिकाऱ्यांना सद्यःस्थितीतील एकूण रिक्त पदांपैकी उर्वरित ५०% रिक्त पदांवर पदोन्नती देण्यात यावी.

निवडसूचीसाठी पात्र ठरलेल्या उमेदवारांपैकी जे उमेदवार जुलै, २०२१ अखेर नियत वयोमानानुसार सेवानिवृत्त होत आहेत, परंतु त्या उमेदवारांना ५०% रिक्त पदांच्यामर्यादेत पदोन्नती देता येत नसल्यास अशा उमेदवारांना ५०% च्या मर्यादेतील शेवटचे उमेदवार वगळून त्या उमेदवारांना पदोन्नती देण्यात यावी.

उपरोक्त सूचनांचे काटेकोरपणे पालन करण्यात यावे. तसेच सदरच्या सूचना सर्व मंत्रालयीन प्रशासकीय विभागांनी त्यांच्या अखत्यारीतील कार्यालय यांच्या निदर्शनास आणून देण्यात याव्यात. मा. मुंबई उच्च न्यायालयाने दिलेल्या आदेशानुसार पदोन्नतीबाबतचा अहवाल सर्व प्रशासकीय विभागांनी त्यांच्या अखत्यारीतील कार्यालयांच्या माहितीसह एकत्रित करून सचिव (साविस) सामान्य प्रशासन विभाग यांना दि.२०.०७.२०२१ पूर्वी सादर करावा.

सदर शासन पत्र महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आले असून त्याचा संकेतांक २०२१०७१४१५०६५४३९०७ असा आहे. हे शासन पत्र डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

आपला

(सीताराम कुंटे)

मुख्य सचिव, महाराष्ट्र शासन

प्रति,

१. सचिव, महाराष्ट्र लोकसेवा आयोग, मुंबई.
२. सर्व विभागीय आयुक्त/सर्व जिल्हाधिकारी, महाराष्ट्र राज्य.
३. प्रधान सचिव, महाराष्ट्र विधानमंडळ सचिवालय, (विधान परिषद/विधानसभा) विधानभवन, मुंबई
४. सचिव, राज्य निवडणूक आयोग, मुंबई- ४०० ०३२.
५. सचिव, राज्य माहिती आयोग, मुंबई-४०० ०३२.
६. मा.प्रबंधक, उच्च न्यायालय, (मूळशाखा/अपील शाखा), मुंबई, औरंगाबाद, नागपूर.
७. मा.प्रबंधक, महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई, औरंगाबाद, नागपूर.
८. मा. प्रबंधक, लोक आयुक्त व उप लोक आयुक्त, मुंबई.
९. सरकारी वकील, उच्च न्यायालय (मूळ शाखा/अपील शाखा), मुंबई, औरंगाबाद, नागपूर.
१०. सरकारी वकील, महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई, औरंगाबाद, नागपूर.
११. सर्व महानगरपालिकांचे आयुक्त, महाराष्ट्र राज्य.
१२. सर्व मुख्याधिकारी, नगरपरिषदा/नगरपालिका, महाराष्ट्र राज्य.
१३. सर्व जिल्हा परिषदांचे मुख्य कार्यकारी अधिकारी, महाराष्ट्र राज्य.
१४. महासंचालक, माहिती व जनसंपर्क संचालनालय, मंत्रालय, मुंबई
१५. सर्व महामंडळे, मंडळे आणि सार्वजनिक उपक्रम यांचे व्यवस्थापकीय संचालक, महाराष्ट्र राज्य.
१६. निवड नस्ती/कार्यासन १६-अ, सामान्य प्रशासन विभाग, मंत्रालय, मुंबई.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO. 6819 OF 2021

Ajay Daulat Jadhav & Ors. ... Petitioners
Vs.
The State of Maharashtra through
General Administration & Ors. ... Respondents

ALONGWITH
INTERIM APPLICATION NO. 1306 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021

Ajay Daulat Jadhav & Ors. ... Applicants
Vs.
The State of Maharashtra & Ors. ... Respondents

ALONGWITH
INTERIM APPLICATION (STAMP) NO. 12028 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021

The State of Maharashtra
through its Principal Secretary ... Applicant
Vs.
Ajay Daulat Jadhav & Ors. ... Respondents

ALONGWITH
INTERIM APPLICATION (STAMP) NO. 11845 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021

The State of Maharashtra
through its Principal Secretary ... Applicant
Vs.
Ajay Daulat Jadhav & Ors. ... Respondents

WRIT PETITION (STAMP) NO. 58 OF 2021

Shri Anandrao Narayan More ... Petitioner

Vs.
The State of Maharashtra through
Its Chief Secretary & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 2081 OF 2021**

Sachin Haridas Kapane ... Petitioner

Vs.
The State of Maharashtra through
General Administration Department,
Mantralaya & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 2941 OF 2021**

Pranjal Pramod Patil & Ors. ... Petitioners

Vs.
The State of Maharashtra through
General Administration Department,
& Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 4228 OF 2021**

Gorakshnath Asaram Agale & Anr. ... Petitioners

Vs.
The State of Maharashtra through
General Administration Department,
& Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 6995 OF 2021**

Milind Ganpat Kadam & Ors. ... Petitioners

Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 10077 OF 2021**

Nandkumar Dashrath More & Ors. ... Petitioners

Vs.
State of Maharashtra & Ors. ... Respondents

ALONGWITH

WRIT PETITION NO. 2090 OF 2021

Krishna Piraji Jagtap ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 11573 OF 2021**

The Association of Sub Ordinate Service of
Engineers & Ors. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION NO. 2091 OF 2021**

Vivek Vishwanath Patil ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION NO. 2092 OF 2021**

Ashwini A. Ghodake & Ors. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 3798 OF 2020
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020**

The Principal Secretary, Water Resources
Department, Mantralaya ... Applicant
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule ... Respondent

**ALONGWITH
INTERIM APPLICATION NO. 1307 OF 2021
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020**

Ankush Ashokrao Palve & Anr. ... Applicants
Vs.

Sanjaykumar Shashikant Kokane & Ors. ... Respondents

ALONGWITH
INTERIM APPLICATION NO. 1305 OF 2021
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020

Sunil Mahadevrao Thakre ... Applicant

Vs.

Sanjaykumar Shashikant Kokane & Ors. ... Respondents

ALONGWITH
WRIT PETITION (STAMP) NO. 97023 OF 2020

Bhimashankar Mallinath Mitkare & Ors. ... Petitioners

Vs.

The State of Maharashtra through
General Administration Department, & Ors. ... Respondents

ALONGWITH
INTERIM APPLICATION (STAMP) NO. 4375 OF 2021
IN
WRIT PETITION (STAMP) NO. 97030 OF 2020

Milind Ganpat Kadam & Ors. ... Applicants

Vs.

Bhimashankar Mallinath Mitkare ... Respondent

ALONGWITH
INTERIM APPLICATION NO. 3799 OF 2020
ALONGWITH
INTERIM APPLICATION NO. 3800 OF 2020

Bhagwan Rajabhau Khedkar & Ors. ... Applicants

Vs.

Bholaso S/o. Vitthal @ Vithu Chaugule ... Respondent

ALONGWITH
WRIT PETITION (STAMP) NO. 98060 OF 2020

Chintaman Gulabrao Vanjari ... Petitioner

Vs.

The State of Maharashtra through
General Administration Department,
& Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 98876 OF 2020**

Dhananjay Ambadas Patil
Vs.

... Petitioner

The State of Maharashtra through
General Administration Department,
& Ors.

... Respondents

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 11842 OF 2021
IN
WRIT PETITION (STAMP) NO. 98876 OF 2020**

State of Maharashtra through
its Principal Secretary, General
Administration Department & Ors.
Vs.

... Petitioners

Dhananjay Ambadas Patil

... Respondent

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 99729 OF 2020
IN
WRIT PETITION (STAMP) NO. 10955 OF 2016**

Bholaso S/o. Vitthal Alias Vithu Chaugule & Ors.
Vs.

... Petitioners

Shri Dinkarrao Sheshrao Shinde

... Respondent

**ALONGWITH
WRIT PETITION NO. 10955 OF 2016**

Shri Rajendra Bhanudas Andhale
Vs.

... Petitioner

The State of Maharashtra through
the Under Secretary Rural Development and
Irrigation Department & Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 13058 OF 2018**

Bholaso s/o. Vitthal @ Vithu Chaugule ... Petitioner
Vs.
The State of Maharashtra through
Principal Secretary & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 770 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018**

Shri Bhalaso s/o. Vitthal @ Vithu Chaugule ... Applicant
Vs.
The State of Maharashtra ... Respondent

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 12027 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018**

The State of Maharashtra through
Principal Secretary & Ors. ... Applicants
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 394 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018**

Pranjal Pramod Patil ... Applicant
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule ... Respondent

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 11751 OF 2021**

Pranjal Pramod Patil & Ors. ... Petitioners
Vs.
The State of Maharashtra through

General Administration & Ors. ... Respondents

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 92 OF 2021**

Chintaman Gulabrao Vanjari ... Petitioner

Vs.

Sanjay Kumar, Chief Secretary ... Respondent

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 12001 OF 2021**

Sanjaykumar Shashikant Kokane ... Petitioner

Vs.

Sitaram Kunte, Chief Secretary of
State of Maharashtra ... Respondent

**ALONGWITH
(O.O.C.J.)
INTERIM APPLICATION NO.10542 OF 2021
IN
WRIT PETITION NO.87 OF 2021**

Jagdish S. Parbalkar ...Petitioner

v/s.

State of Maharashtra & Ors. ...Respondents

**AND
WRIT PETITION NO.1125 OF 2021**

Milind Nandkant Bhalerao ...Petitioner

v/s.

The State of Maharashtra & Ors. ...Respondents

.....

Mr. Abhijeet Desai a/w. Mr. Amol Jagtap for the Petitioner in Writ Petition (Stamp) No. 6995 of 2021.

Mr. Ajay Deshpande a/w. Mr. Anoop U. Patil for the Applicant in IA No. 1305 of 2021.

Mr. Yashodeep Deshmukh i/b. Mr. Akshay R. Kapadia for the Petitioners in Writ Petition (Stamp) No. 11573 of 2021 and Writ Petition No. 2092 of 2021.

Mr. P. S. Jaitely, Senior Advocate a/w. Mr. Sham Walve, Mr. Nikhil Waje, Mr. Vishesh Srivastav, Mr. Prem Gada for the Applicant/Petitioner in I.A. No. 1306 of 2021 in Writ Petition (Stamp) No. 6819 of 2021.

Mr. Balasaheb Deshmukh for the Intervenors in I.A. Nos. 3799/2020 and 3800/2020.

Mr. Vinod Sangvikar, Shakuntala Sangvikar, Vaishnavi Gholave for the Petitioner and Applicant in Writ Petition No. 13058/2018 with I.A.770/2021.

Mr. Vinod Sangvikar a/w. Shakuntala Sangvikar, Vaishnavi Gholave for the Petitioner Writ Petition No. 58/2021.

Mr. Tejesh Dande a/w. Mr. Bharat Gadhavi i/b. Tejesh Dande & Associates for the Petitioners in Writ Petition (Stamp) No. 2941 of 2021 and Contempt Petition (Stamp) No. 11751 of 2021.

Mr. Sugandh B. Deshmukh for the Petitioner in Contempt Petition (Stamp) Nos. 92/2021,12001/2021 and Writ Petition (Stamp) Nos.4228/2021, 10077/2021 and Writ Petition Nos. 2090/2021, 2091/2021, Writ Petition Stamp No. 97023/2020 with IA 1307/2021, Writ Petition Stamp Nos. 98060/2020 and Writ Petition No. 10955/2016.

Mr.Mahendra Shingade in WPSt/2081/2021 and WPSt/98876/2020.

Mr.Gautam S. Dongre for the Petitioner in WP/87/2021.

Mr.Siddesh Pilankar i/b Uday Warunjikar for the Petitioner in WP/1125/2021.

Mr.A.L.Patki, Addl.G.P. for State.

Mr.A.A.Kumbhakoni, Advocate General with Mr.P.P.Kakade, GP, Mr.Ashutosh Kulkarni `B' Panel Counsel, Smt.A.A.Purav, AGP with Smt.G.P.Sonawane.

....

**CORAM : A.A. SAYED &
MADHAV JAMDAR, JJ.
DATED : 29 JUNE 2021
(THROUGH V.C.)**

P.C.:

Learned Advocate General has addressed us on the position of identification of posts for Persons with Disability (PWD) in all the 31 departments of the State Government. He states that out of 31 departments, in 30 departments posts for PWD have been identified and endeavours are being made to complete the process of identification in the last department viz. Revenue & Forest Department at the earliest. He further states that the relevant GRs at the department level have also been issued in the 30 departments and the relevant GR at the level of Revenue & Forest Department will be issued accordingly. We expect this process of identification of posts for PWD in the Revenue & Forest Department to be completed within a period of two weeks from today. Learned Advocate General makes a statement in the form of a note handed in. The said note reads as under:

- a. State Government, within one month from today, will frame appropriate policy in terms of 1st proviso of Section 34 for of the Rights of persons with Disabilities Act, 2016, thereby issuing appropriate instructions for implementation of the reservation in promotion, contemplated by the said Section 34.

b. Within one week of framing of such policy, various departments of the State Government, in respect of identified posts, will initiate procedure, in accordance with law, for the implementation of provisions, of aforesaid Section 34. Appropriate orders of promotion in favor of Persons with Disabilities (PWDs), towards filling of the vacancies existing on 1st June, 2021, if any, in that regard, will be issued within two weeks of the decision of the respective Department Promotion Committees.

c. In the meantime, pending issuance of such orders of promotion and resultant posting orders, it may be kept open for the State Government to grant promotions to the non-PWDs in accordance with law, by reserving minimum 8% (being double of 4%) of the available total cadre strength in which such promotions are granted. The 8% posts, which are so kept aside, will be utilized for satisfying the reservations, in terms of aforesaid Section 34, read with proposed policy of the State Government.

d. The promotions, if any, granted so far, if satisfy the aforesaid conditions of keeping aside 8% of the posts, be permitted to be implemented, subject to further orders, that may be passed by this Hon'ble Court.

e. Orders of posting may be permitted to be issued in case where the promotions are so far granted, which satisfies the aforesaid condition of keeping aside 8% of the posts.

2. Learned Counsel for some of the Petitioners representing PWD, however, objected to the statement to the extent of not granting promotions to PWD and keeping aside 8% post of PWD (double of 4% entitlement of

PWD) and giving promotion to non-PWD. It is contended that despite restraint orders passed by this Court on 3-11-2020 in respect of promotion to non-PWD, promotions have been granted to some of the employees who are non-PWD even recently. Learned Counsel for the Petitioners representing PWD have pointed out the order dated 7 May 2021, wherein it was directed that the State Government may make promotions to non-PWD provided that the PWD employees are also promoted simultaneously in those departments. We need not examine these issues at this stage.

3. We accept the statement of the learned Advocate General to the extent that within one month, the State Government shall issue appropriate instructions in terms of first proviso to Section 34 of the Right of Persons with Disabilities Act, 2016 in respect of implementation of reservation in promotion and within one week of the issuance of such instruction by the State Government, various departments of the State Government, will initiate the procedure, in accordance with law, for the implementation of provisions of Section 34. We further accept his statement that appropriate orders of promotion in favour of PWD towards filling of the vacancies existing on 1st June, 2021, if any, in that regard, will be issued within two weeks of the decision of the respective Department Promotion Committees.

4. In 30 departments where posts have been identified, we permit the State Government to make simultaneously promotions in respect of 50% of the posts for non-PWD (including where promotions were made earlier but only posting orders are to be issued) and 50% of the posts identified for PWD. Such promotions shall be on ad-hoc and temporary basis only and subject to further orders of this Court after regular orders of promotion are made in terms of the statement of the learned Advocate General recorded in the latter part of paragraph No.3 above. We further make it clear that so far as Revenue & Forest department is concerned, since the posts are yet to be identified, no promotion shall be made in the said department, except to the extent of those employees who are due to retire by 31 July 2021 as stated hereinafter.

5. We expect the respective Departmental Promotion Committees to take appropriate decision at the earliest and in any event, within two weeks from the date on which the instructions are issued by the State Government in terms of first proviso to Section 34 of Rights of Persons with Disabilities Act, 2016.

6. We however permit the State Government, if so advised, to grant promotion to such employees who are due to retire on superannuation on or before 31 July 2021 and whose promotions are not granted due to ad-

interim orders of this Court.

7. So far as Writ Petition No.87 of 2021 is concerned, (Jagdish S. Parbalkar v/s. State of Maharashtra), we record the statement of the learned Advocate General that the Petitioner in the said Petition shall not be held ineligible only on account of disability in both legs (BL) as classified in the GR dated 24-02-2021.

8. In view of the aforesaid statement of the learned Advocate General, the Interim Application (L) No.10542 of 2021 in Writ Petition No.87 of 2021 is worked out and shall stand disposed of.

9. All the ad-interim orders passed by this Court in the aforesaid Petitions shall stand modified accordingly.

10. List the Petitions on 8 July 2021 'for Directions', when the State Government shall apprise the Court of the progress made in respect of promotions to PWD.

(MADHAV JAMDAR,J.)

(A.A.SAYED, J.)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO. 6819 OF 2021

Ajay Daulat Jadhav & Ors. ... Petitioners
Vs.
The State of Maharashtra through
General Administration & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 1306 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021**

Ajay Daulat Jadhav & Ors. ... Applicants
Vs.
The State of Maharashtra & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 12028 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021**

The State of Maharashtra
through its Principal Secretary ... Applicant
Vs.
Ajay Daulat Jadhav & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 11845 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021**

The State of Maharashtra
through its Principal Secretary ... Applicant
Vs.
Ajay Daulat Jadhav & Ors. ... Respondents

WRIT PETITION (STAMP) NO. 58 OF 2021

Shri Anandrao Narayan More ... Petitioner
Vs.
The State of Maharashtra through

Its Chief Secretary & Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 2081 OF 2021**

Sachin Haridas Kapane

... Petitioner

Vs.

The State of Maharashtra through
General Administration Department,
Mantralaya & Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 2941 OF 2021**

Pranjal Pramod Patil & Ors.

... Petitioners

Vs.

The State of Maharashtra through
General Administration Department,
& Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 4228 OF 2021**

Gorakshnath Asaram Agale & Anr.

... Petitioners

Vs.

The State of Maharashtra through
General Administration Department,
& Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 6995 OF 2021**

Milind Ganpat Kadam & Ors.

... Petitioners

Vs.

State of Maharashtra & Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 10077 OF 2021**

Nandkumar Dashrath More & Ors.

... Petitioners

Vs.

State of Maharashtra & Ors.

... Respondents

**ALONGWITH
WRIT PETITION NO. 2090 OF 2021**

Krishna Piraji Jagtap

... Petitioner

Vs.

State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 11573 OF 2021**

The Association of Sub Ordinate Service of
Engineers & Ors. ... Petitioners

Vs.

State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION NO. 2091 OF 2021**

Vivek Vishwanath Patil ... Petitioner

Vs.

State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION NO. 2092 OF 2021**

Ashwini A. Ghodake & Ors. ... Petitioners

Vs.

State of Maharashtra & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 3798 OF 2020
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020**

The Principal Secretary, Water Resources
Department, Mantralaya ... Applicant

Vs.

Bholaso S/o. Vitthal Alias Vithu Chaugule ... Respondent

**ALONGWITH
INTERIM APPLICATION NO. 1307 OF 2021
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020**

Ankush Ashokrao Palve & Anr. ... Applicants

Vs.

Sanjaykumar Shashikant Kokane & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 1305 OF 2021
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020**

Sunil Mahadevrao Thakre

... Applicant

Vs.

Sanjaykumar Shashikant Kokane & Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 97023 OF 2020**

Bhimashankar Mallinath Mitkare & Ors.

... Petitioners

Vs.

The State of Maharashtra through

General Administration Department, & Ors.

... Respondents

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 4375 OF 2021
IN
WRIT PETITION (STAMP) NO. 97030 OF 2020**

Milind Ganpat Kadam & Ors.

... Applicants

Vs.

Bhimashankar Mallinath Mitkare

... Respondent

**ALONGWITH
INTERIM APPLICATION NO. 3799 OF 2020**

**ALONGWITH
INTERIM APPLICATION NO. 3800 OF 2020**

Bhagwan Rajabhau Khedkar & Ors.

... Applicants

Vs.

Bholaso S/o. Vitthal @ Vithu Chaugule

... Respondent

**ALONGWITH
WRIT PETITION (STAMP) NO. 98060 OF 2020**

Chintaman Gulabrao Vanjari

... Petitioner

Vs.

The State of Maharashtra through

General Administration Department,

& Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 98876 OF 2020**

Dhananjay Ambadas Patil

... Petitioner

Vs.

The State of Maharashtra through
General Administration Department,
& Ors.

... Respondents

ALONGWITH
INTERIM APPLICATION (STAMP) NO. 11842 OF 2021
IN
WRIT PETITION (STAMP) NO. 98876 OF 2020

State of Maharashtra through
its Principal Secretary, General
Administration Department & Ors.

... Petitioners

Vs.

Dhananjay Ambadas Patil

... Respondent

ALONGWITH
INTERIM APPLICATION (STAMP) NO. 99729 OF 2020
IN
WRIT PETITION (STAMP) NO. 10955 OF 2016

Bholaso S/o. Vitthal Alias Vithu Chaugule & Ors.

... Petitioners

Vs.

Shri Dinkarrao Sheshrao Shinde

... Respondent

ALONGWITH
WRIT PETITION NO. 10955 OF 2016

Shri Rajendra Bhanudas Andhale

... Petitioner

Vs.

The State of Maharashtra through
the Under Secretary Rural Development and
Irrigation Department & Ors.

... Respondents

ALONGWITH
WRIT PETITION (STAMP) NO. 13058 OF 2018

Bholaso s/o. Vitthal @ Vithu Chaugule

... Petitioner

Vs.

The State of Maharashtra through
Principal Secretary & Ors.

... Respondents

ALONGWITH
INTERIM APPLICATION NO. 770 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018

Shri Bhalaso s/o. Vitthal @ Vithu Chaugule ... Applicant
Vs.
The State of Maharashtra ... Respondent

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 12027 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018**

The State of Maharashtra through
Principal Secretary & Ors. ... Applicants
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 394 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018**

Pranjal Pramod Patil ... Applicant
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule ... Respondent

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 11751 OF 2021**

Pranjal Pramod Patil & Ors. ... Petitioners
Vs.
The State of Maharashtra through
General Administration & Ors. ... Respondents

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 92 OF 2021**

Chintaman Gulabrao Vanjari ... Petitioner
Vs.
Sanjay Kumar, Chief Secretary ... Respondent

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 12001 OF 2021**

Sanjaykumar Shashikant Kokane ... Petitioner
Vs.

Sitaram Kunte, Chief Secretary of
State of Maharashtra

... Respondent

Mr. Abhijeet Desai a/w. Mr. Amol Jagtap for the Petitioner in Writ Petition (Stamp) No. 6995 of 2021.

Mr. Ajay Deshpande a/w. Mr. Anoop U. Patil for the Applicant in IA No. 1305 of 2021.

Mr. Yashodeep Deshmukh i/b. Mr. Akshay R. Kapadia for the Petitioners in Writ Petition (Stamp) No. 11573 of 2021 and Writ Petition No. 2092 of 2021.

Mr. Mahendra Shingade for the Petitioner in WP (St.) Nos. 2081/2021 & 98876/2020.

Mr. P. S. Jaitely, Senior Advocate a/w. Mr. Sham Walve, Mr. Nikhil Waje, Mr. Vishesh Srivastav, Mr. Prem Gada for the Applicant/Petitioner in I.A. No. 1306 of 2021 in Writ Petition (Stamp) No. 6819 of 2021.

Mr. Balasaheb Deshmukh for the Intervenors in I.A. Nos. 3799/2020 and 3800/2020.

Dr. Uday Warunjikar a/w. Mr. Vinod Sangvikar, Shakuntala Sangvikar, Vaishnavi Gholave for the Petitioner and Applicant in Writ Petition No. 13058/2018 with I.A. 770/2021 and for the Petitioner in WP No. 1125/2021.

Mr. Vinod Sangvikar a/w. Shakuntala Sangvikar, Mr. Yogesh Morbale with Ms. Vaishnavi Gholave for the Petitioner Writ Petition No. 58/2021.

Mr. Tejesh Dande a/w. Mr. Bharat Gadhavi i/b. Tejesh Dande & Associates for the Petitioners in Writ Petition (Stamp) No. 2941 of 2021 and Contempt Petition (Stamp) No. 11751 of 2021.

Mr. Sugandh B. Deshmukh for the Petitioner in Contempt Petition (Stamp) Nos. 92/2021, 12001/2021 and Writ Petition (Stamp) Nos. 4228/2021, 10077/2021 and Writ Petition Nos. 2090/2021, 2091/2021, Writ Petition Stamp No. 97023/2020 with IA 1307/2021, Writ Petition Stamp Nos. 98060/2020 and Writ Petition No. 10955/2016.

Mr. A. A. Kumbhakoni, AG with Mr. P. P. Kakade GP with Mr. Ashutosh Kulkarni with Smt. A. A. Purav, AGP for the State in IAST/12077/2021.

**CORAM : UJJAL BHUYAN AND
MADHAV J. JAMDAR, JJ.**

**DATE : 8TH JULY, 2021
(THROUGH VIDEO CONFERENCING)**

P.C:-

1. Heard learned counsel for the petitioners.
2. We have also heard Mr.A.A.Kumbhakoni, learned Advocate General for the State of Maharashtra at length.
3. We have perused our detailed order dated 29th June, 2021.
4. Learned Advocate General submits that though earlier he had made a statement before the Court which was accepted that within a period of one month appropriate instructions in terms of first proviso to section 34 of the Rights of Persons with Disabilities Act, 2016 (briefly “the 2016 Act” hereinafter) would be issued, as a matter of fact such instructions have already been issued on 5th July, 2021 which has been placed before us. He submits that consequent upon issuance of such instructions, Chief Secretary of the State will now interact with the Heads of Department for constituting Departmental Promotional Committees to carry out promotions. His further submission is that out of 5452 cadres to which promotions can be made, posts have already been identified in 4732 cadres where differently abled persons can be posted on promotion; only 729 cadres remain for identification of posts.
 - 4.1. Out of 31 departments in the State of Maharashtra, identification of posts for posting of differently abled persons on promotion has almost been completed in 30 departments, leaving out only one department i.e. Revenue and Forest department. Even in respect of Revenue and Forest department, identification of posts has been completed in the Revenue department and only Forest department needs to complete the process. He, therefore, submits that the bunch of matters may be taken up after two

weeks by which time requisite steps would be taken to address the grievance of differently abled persons seeking promotion on the basis of the 2016 Act.

5. Mr.Jaitley, learned senior counsel, Mr.Abhijit Desai and Mr.Yashodeep Deshmukh, learned counsel representing non-PWD (Persons With Disability) petitioners submit that way back in November 2020 i.e. on 12/11/2020 they were promoted and thus vested right has accrued in them. Notwithstanding the same, consequential posting orders have not been issued. Therefore, the submission is that now that the rights of PWD petitioners are being taken care of by this Court and are being monitored, there should be no embargo in giving effect to the promotion orders since already a long period of time has elapsed in the meanwhile post promotion.

6. Mr.Sugandh Deshmukh, learned counsel for the PWD petitioners submits that if such petitioners are promoted then there is every likelihood of the rights of PWD petitioners being jeopardized. He has referred to paragraph 4 of our order dated 29/06/2021 and submits that the said paragraph sufficiently protects the interest of non-PWD petitioners.

7. At this stage Dr.Warunjikar, learned counsel appearing for PWD petitioner in Writ Petition No.13058 of 2018 submits that his client has already super-annuated from service on 31/05/2021 without getting benefit of promotion under the 2016 Act.

8. To this learned Advocate General submits that State is apprised of the grievance expressed and would look into the claim for deemed/notional promotion of the petitioner in Writ Petition No.13058 of 2018.

9. We have given our anxious consideration to the entire bunch of issues which are before us. Rights of two groups of petitioners are involved in this proceeding and with the kind assistance of learned Advocate General, we feel that we are in process of resolution of the dispute.

10. In the circumstances as prayed for by learned Advocate General we defer hearing of this bunch of petitions by two weeks.

11. Interim order passed by this Court as modified by order dated 29th June, 2021 would continue till the next date.

12. List the petitions on 22nd July, 2021.

(MADHAV J. JAMDAR, J.)

(UJJAL BHUYAN, J.)